#### Case5:00-cv-20905-RMW Document3579 Filed03/21/08 Page1 of 19 1 Gregory P. Stone (State Bar No. 078329) Rollin A. Ransom (State Bar No. 196126) Steven M. Perry (State Bar No. 106154) SIDLEY AUSTIN LLP Sean Eskovitz (State Bar No. 241877) 2 555 West Fifth Street, Suite 4000 MUNGER, TOLLES & OLSON LLP Los Angeles, California 90013-1010 3 355 South Grand Avenue, 35th Floor Telephone: (213) 896-6000 Los Angeles, California 90071-1560 Facsimile: (213) 896-6600 4 Telephone: (213) 683-9100 Email: rransom@sidley.com Facsimile: (213) 687-3702 5 Email: *gregory.stone@mto.com*; Pierre J. Hubert (Pro Hac Vice) steven.perry@mto.com; sean.eskovitz@mto.com Craig N. Tolliver (Pro Hac Vice) 6 McKOOL SMITH PC Peter A. Detre (State Bar No. 182619) 300 West 6th Street, Suite 1700 7 Carolyn Hoecker Luedtke (State Bar No. Austin, Texas 78701 Telephone: (512) 692-8700 207976) 8 MUNGER, TOLLES & OLSON LLP Facsimile: (512) 692-8744 560 Mission Street, 27th Floor E-mail: *phubert@mckoolsmith.com*; 9 San Francisco, California 94105 ctolliver@mckoolsmith.com Telephone: (415) 512-4000 10 Facsimile: (415) 512-4077 Attorneys for Plaintiff and Counterclaim-Email: peter.detre@mto.com; Defendant carolyn.luedtke@mto.com RAMBUS INC. 11 12 UNITED STATES DISTRICT COURT 13 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION 14 15 16 HYNIX SEMICONDUCTOR INC., et al., CASE NO.: CV 00-20905 RMW 17 Plaintiffs. RAMBUS INC.'S [PROPOSED] VERDICT FORM PURSUANT TO FED. R. CIV. PROC. 18 49(A) v. 19 RAMBUS INC., Trial Date: January 29, 2008 Time: 1:30 p.m. 20 Defendant. Location: Courtroom 6 Judge: Hon. Ronald M. Whyte 21 22 CASE NO.: C 05-00334 RMW RAMBUS INC., 23 Plaintiff, 24 v. 25 HYNIX SEMICONDUCTOR INC., et al., 26 Defendants. 27

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## Case5:00-cv-20905-RMW Document3579 Filed03/21/08 Page2 of 19 RAMBUS INC., CASE NO.: C-06-00244 RMW Plaintiff, vs. MICRON TECHNOLOGY INC. and MICRON SEMICONDUCTOR PRODUCTS, INC., Defendants. RAMBUS'S PRELIMINARY [PROPOSED] VERDICT FORM,

CASE NOS. 00-20905 RMW, 05-00334 RMW, 06-00244 RMW

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1	For purposes of the following questions, Rambus Inc. will be referred to as "Rambus;"	
2	Hynix Semiconductor Inc., Hynix Semiconductor America, Inc., Hynix Semiconductor U.K. Ltd.	
3	and Hynix Semiconductor Deutschland GmbH shall be referred to as "Hynix;" Micron	
4	Technology, Inc. and Micron Semiconductor Products, Inc. shall be referred to as "Micron;" and	
5	Nanya Technology Corporation and Nanya Technology Corporation U.S.A. shall be referred to as	
6	"Nanya."	
7		
8	WE, THE JURY IN THE ABOVE ENTITLED ACTION, FIND THE FOLLOWING	
9	SPECIAL VERDICT ON THE FOLLOWING QUESTIONS SUBMITTED TO US:	
10		
11	I. <u>CLAIM OF MONOPOLIZATION</u>	
12	1. Do you find that Hynix, Nanya and Micron have met their burden of proving the	
13	existence of any of the following alleged markets:	
14	a. a market for latency technology	
15	Yes No	
16	b. a market for burst length technology	
17	Yes No	
18	a montrat for data appalaration tachnology	
19	c. a market for data acceleration technology  Yes No	
20	1 es 1 vo	
21 22	d. a market for clock synchronization technology	
23	Yes No	
24	e. a market for auto precharge technology	
25	Yes No	
26	f. a market for write latency technology	
27	Yes No	
28	r es No	
-	-1- RAMBUS'S PRELIMINARY (PROPOSED) VERDICT FORM	
	KAMBUS SEKRI IMINAK Y IPKUPUSRUI VEKUM TERUKM	

RAMBUS'S PRELIMINARY [PROPOSED] VERDICT FORM, CASE NOS. 00-20905 RMW, 05-00334 RMW, 06-00244 RMW

#### 1 2. If your answer to all subparts of question 1 is "No," please proceed to Section III. 2 If your answer to any subpart of question 1 is "Yes," please proceed to question 3, below. 3 4 3. Do you find that Hynix, Nanya and Micron have met their burden of proving that, prior to Rambus's withdrawal from JEDEC, there were close substitutes available 5 to JEDEC for the following: 6 programmable CAS latency a. 7 Yes \_\_\_\_\_ No \_\_\_\_ 8 b. programmable burst length 9 Yes \_\_\_\_\_ No \_\_\_\_ 10 11 dual edge clocking c. 12 Yes \_\_\_\_\_ No \_\_\_\_ 13 d. on-chip DLL 14 Yes \_\_\_\_ No \_\_\_\_ 15 16 e. auto precharge Yes \_\_\_\_\_ No \_\_\_\_ 17 18 f. programmable write latency 19 Yes \_\_\_\_\_ No \_\_\_\_ 20 If your answer to all subparts of question 3 is "No," please proceed to 4. 21 Section III. 22 If your answer to any subpart of question 3 is "Yes," please proceed to 23 question 5. 24 5. Do you find that Hynix, Nanya and Micron have met their burden of proving that 25 Rambus has monopoly power in any of the following alleged markets? 26 a market for latency technology a. 27 Yes \_\_\_\_\_ No \_\_\_\_ 28

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#### 1 b. a market for burst length technology Yes \_\_\_\_\_ No \_\_\_\_ 2 3 a market for data acceleration technology c. 4 Yes \_\_\_\_\_ No \_\_\_\_ 5 a market for clock synchronization technology d. 6 Yes No 7 8 a market for auto precharge technology e. 9 Yes \_\_\_\_\_ No \_\_\_\_ 10 f. a market for write latency technology 11 Yes \_\_\_\_\_ No \_\_\_\_ 12 If your answer to all subparts of question 5 is "No," you should proceed to 6. 13 Section II. 14 If your answer to any subpart of question 5 is "Yes," please proceed to 15 question 7. 16 7. Do you find that Hynix, Nanya and Micron have met their burden of proving by 17 clear and convincing evidence that Rambus willfully acquired monopoly power in a relevant market through anticompetitive conduct rather than competition on the 18 merits? 19 Yes \_\_\_\_\_ No \_\_\_\_ 20 If your answer to question 7 is "No," you should proceed to Section II. 21 8. 22 If your answer to question 7 is "Yes," please proceed to question 9. 23 9. Do you find that Rambus had a legitimate business reason for the acts or omissions 24 that resulted in its monopoly power? 25 Yes \_\_\_\_ No \_\_\_\_ 26 27 28

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### 1 10. If your answer to question 9 is "Yes," please proceed to Section III. 2 If your answer to question 9 is "No," please proceed to question 11. 3 11. Do you find that Hynix, Nanya and Micron have met their burden of proving that 4 Rambus's alleged unlawful conduct caused the standard-setting organization, JEDEC, to adopt a standard it otherwise would have rejected? 5 Yes \_\_\_\_\_ No \_\_\_\_ 6 7 12. If your answer to question 11 is "No," please proceed to Section III. 8 If your answer to question 11 is "Yes," please proceed to question 13. 9 10 13. Do you find that Hynix, Nanya and Micron have met their burden of proving that the adoption of the standard gave Rambus monopoly power it would not otherwise 11 have obtained? 12 Yes No 13 If your answer to question 13 is "No," please proceed to Section III. 14. 14 15 If your answer to question 13 is "Yes," please proceed to question 15. 16 **Additional Question Regarding Hynix** 17 15. Do you find that Hynix has met its burden of proving that Hynix was injured in its 18 business or property because of Rambus's anticompetitive conduct? 19 Yes \_\_\_\_\_ No \_\_\_\_ 20 21 Please proceed to question 16. 22 **Additional Question Regarding Nanya** 23 Do you find that Nanya has met its burden of proving that Nanya was injured in its 16. 24 business or property because of Rambus's anticompetitive conduct? 25 Yes No 26 Please proceed to question 17. 27 28

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1	Additional Question Regarding Micron		
2	17. Do you find that Micron has met its burden of proving that Micron was injured in its business or property because of Rambus's anticompetitive conduct?		
3		Yes No	
5		Please proceed to Section II.	
6			
7	II. <u>CLA</u>	IM OF ATTEMPTED MONOPOLIZATION	
8	18. Do you find that Hynix, Nanya and Micron have met their burden of proving by clear and convincing evidence that Rambus engaged in anticompetitive conduct rather than competition on the merits?		
10			
11		Yes No	
12	19.	If your answer to question 18 is "No," please proceed to Section III.	
13 14		If your answer to question 18 is "Yes," please proceed to question 20.	
15	20.	Do you find that Rambus had a legitimate business reason for its conduct?	
16 17		Yes No	
18	21.	If your answer to question 20 is "Yes," please proceed to Section III.	
19		If your answer to question 20 is "No," please proceed to question 22.	
20	22.	Do you find that Hynix, Nanya and Micron have met their burden of proving that	
21		Rambus had a specific intent to achieve monopoly power in a relevant market?	
22		Yes No	
23	23.	If your answer to question 22 is "No," please proceed to Section III.	
24	23.		
25		If your answer to question 22 is "Yes," please proceed to question 24.	
26			
27			
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1	24.	In which relevant market or markets did Rambus have this specific intent?		
2		a. a market for latency technology		
3		Yes No		
4		b. a market for burst length technology		
5		Yes No		
6		103		
7		c. a market for data acceleration technology		
8		Yes No		
9		d. a market for clock synchronization technology		
10		Yes No		
11		e. a market for auto precharge technology		
12		Yes No		
13 14				
15		f. a market for write latency technology		
16		Yes No		
17		Please proceed to question 25.		
18	25.	Do you find that Hynix, Nanya and Micron have met their burden of proving that		
19		there was a substantial and real likelihood that Rambus would ultimately acquire monopoly power in a relevant market?		
20		Yes No		
21		105 110		
22	26.	If your answer to question 25 is "No," please proceed to Section III.		
23		If your answer to question 25 is "Yes," please proceed to question 27.		
24	27.	In which market or markets was there this probability?		
25	21.	In which market or markets was there this probability?		
26		a. a market for latency technology		
27		Yes No		
28				
		-6- RAMBUS'S PRELIMINARY (PROPOSED) VERDICT FORM		

#### 1 b. a market for burst length technology Yes \_\_\_\_\_ No \_\_\_\_ 2 3 a market for data acceleration technology c. 4 Yes \_\_\_\_\_ No \_\_\_\_ 5 a market for clock synchronization technology d. 6 Yes \_\_\_\_\_ No \_\_\_\_ 7 8 a market for auto precharge technology e. 9 Yes \_\_\_\_\_ No \_\_\_\_ 10 f. a market for write latency technology 11 Yes \_\_\_\_\_ No \_\_\_\_ 12 Please proceed to question 28. 13 14 28. Do you find that Hynix, Nanya and Micron have met their burden of proving that Rambus's alleged unlawful conduct caused the standard-setting organization, 15 JEDEC, to adopt a standard it otherwise would have rejected? 16 Yes \_\_\_\_\_ No \_\_\_\_ 17 18 29. If your answer to question 28 is "No," please proceed to Section III. 19 If your answer to question 28 is "Yes," please proceed to question 30. 20 30. Do you find that Hynix, Nanya and Micron have met their burden of proving that 21 the adoption of the standard gave Rambus monopoly power it would not otherwise have obtained? 22 23 Yes \_\_\_\_\_ No \_\_\_\_ 24 If your answer to question 30 is "No," please proceed to Section III. 31. 25 If your answer to question 30 is "Yes," please proceed to question 32. 26 27 28

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#### 1 38. If your answer to question 37 is "No," please proceed to Section IV. 2 If your answer to question 37 is "Yes", please proceed to questions 39(a) and (b). 3 39. Did Rambus know that the representation was false when it was made? a. 4 No \_\_\_\_ 5 Yes 6 Did Rambus make the representation recklessly without knowing whether b. 7 it was true or false? Yes No 8 9 If your answers to questions 39a and 39b are "No", please proceed to Section IV. 40. 10 If your answer to either question 39a or 39b is "Yes", please proceed to question 11 41. 12 13 **Additional Questions Regarding Hynix** 14 41. Did Rambus make the representation with an intent to defraud Hynix? a. 15 Yes \_\_\_\_\_ No \_\_\_\_ 16 17 If your answer to question 41(a) is "No," please proceed to question 42. 18 If your answer to question 41(a) is "Yes," please proceed to the next question. 19 Was Hynix aware of the representation? b. 20 21 Yes \_\_\_\_\_ No \_\_\_\_ 22 If your answer to question 41(b) is "No," please proceed to question 42. 23 If your answer to question 41(b) is "Yes," please proceed to the next question. 24 25 Was Hynix aware of the falsity of the representation? c. 26 No \_ Yes 27 If your answer to question 41(c) is "Yes," please proceed to question 42. 28

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1	If your answer to question 41(c) is "No," please proceed to the next question.		
2	d Did Hymir oot in rollings was the touth of the representations		
3	d. Did Hynix act in reliance upon the truth of the representation?		
4	Yes No		
5	If your answer to question 41(d) is "No," please proceed to question 42.		
6	If your answer to question 41(d) is "Yes," please proceed to the next question.		
7	if your answer to question 41(a) is Tes, please proceed to the next question.		
8	e. Was Hynix justified in relying upon the representation?		
9	Yes No		
10	Please proceed to question 42.		
11	Trease proceed to question 12.		
12	Additional Questions Regarding Nanya		
13			
14	42. a. Did Rambus make the representation with an intent to defraud Nanya?		
15	Yes No		
16	If your answer to question 42(a) is "No," please proceed to question 43.		
17	If your answer to question 42(a) is "Yes," please proceed to the next question.		
18	11 your answer to question 42(a) is Tes, prease proceed to the next question.		
19	b. Was Nanya aware of the representation?		
20	Yes No		
21	If your answer to question 42(b) is "No," please proceed to question 43.		
22			
23	If your answer to question 42(b) is "Yes," please proceed to the next question.		
24	c. Was Nanya aware of the falsity of the representation?		
25	Yes No		
26			
27	If your answer to question 42(c) is "Yes," please proceed to question 43.		
28	-10-		
	RAMBUS'S PRELIMINARY [PROPOSED] VERDICT FORM,		

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1	If your answer to question 42(c) is "No," please proceed to the next question.
2	d Did Nonvo act in reliance your the toyth of the representation?
3	d. Did Nanya act in reliance upon the truth of the representation?
4	Yes No
5	If your answer to question 42(d) is "No," please proceed to question 43.
6	If your answer to question 42(d) is "Yes," please proceed to the next question.
7	
8	e. Was Nanya justified in relying upon the representation?
9	Yes No
11	Please proceed to question 43.
12	
13	Additional Questions Regarding Micron
14	43. a. Did Rambus make the representation with an intent to defraud Micron?
15	Yes No
16	
17	If your answer to question 43(a) is "No," please proceed to question 44.
18	If your answer to question 43(a) is "Yes," please proceed to the next question.
19	b. Was Micron aware of the representation?
20	Yes No
<ul><li>21</li><li>22</li></ul>	
23	If your answer to question 43(b) is "No," please proceed to question 44.
24	If your answer to question 43(b) is "Yes," please proceed to question 43(c).
25	c. Was Micron aware of the falsity of the representation?
26	Yes No
27	
28	If your answer to question 43(c) is "Yes," please proceed to question 44.
	-11-

#### 1 If your answer to question 43(c) is "Yes," please proceed to question 43(d). 2 d. Did Micron act in reliance upon the truth of the representation? 3 Yes \_\_\_\_\_ No \_\_\_\_ 4 5 If your answer to question 43(d) is "No," please proceed to question 44. 6 If your answer to question 43(d) is "Yes," please proceed to question 43(e). 7 e. Was Micron justified in relying upon the representation? 8 9 Yes \_\_\_\_\_ No \_\_\_\_ 10 44. If you answered any one or more of questions 41(e), 42(e) and 43(e) "Yes," please 11 proceed to question 45. Otherwise, please proceed to Section IV. 12 45. Do you find that Hynix, Nanya and Micron have met their burden of proving that 13 Rambus's alleged misrepresentation caused the standard-setting organization, JEDEC, to adopt a standard it otherwise would have rejected? 14 Yes \_\_\_\_\_ No \_\_\_\_ 15 16 46. If your answer to question 45 is "No", please proceed to section IV. 17 If your answer to question 45 is "Yes", please proceed to question 47. 18 19 47. Do you find that Hynix, Nanya and Micron have met their burden of proving that the adoption of the standard gave Rambus monopoly power it would not otherwise 20 have obtained? 21 Yes \_\_\_\_\_ No \_\_\_\_ 22 48. If your answer to question 47 is "No," please proceed to section IV. 23 24 If your answer to question 47 is "Yes," please proceed to question 49. 25 49. Did Rambus's misrepresentation cause Hynix injury? a. 26 Yes \_\_\_\_\_ No \_\_\_\_ 27 28

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1			b. Did Rambus's misrepresentation cause Nanya injury?	
2			Yes No	
3			c. Did Rambus's misrepresentation cause Micron injury?	
4			Yes No	
5				
6		Please proceed to section IV.		
7	IV.	<u>CLA</u>	IM OF CONCEALMENT	
8		50.	Did Rambus conceal or suppress a material fact?	
9			Yes No	
10				
11			If your answer to question 50 is "No," sign and return this verdict.	
12			If your answer to question 50 is "Yes," then proceed to question 51.	
13		51.	a. Was Rambus under a duty to disclose the fact to Hynix?	
<ul><li>14</li><li>15</li></ul>			Yes No	
16			163 110	
17			b. Was Rambus under a duty to disclose the fact to Nanya?	
18			Yes No	
19			c. Was Rambus under a duty to disclose the fact to Micron?	
20			Yes No	
21				
22			If your answers to questions 51(a) through (c) are "No," sign and return this verdict.	
23			If you answered any part of question 51 "Yes," then proceed to question 52.	
24			if you allowered any part of questioned. Test, then proceed to question 22.	
25		52.	Did Rambus intentionally conceal or suppress the fact with the intent to defraud any of the Manufacturers?	
26			Yes No	
27			103	
28			If your answer to question 52 is "No," sign and return this verdict.	
	<u> </u>		-13-	

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1 2	If your answer to question 52 is "Yes," then proceed to question 53.		
3	Additional Questions Regarding Hynix		
4	53. a. Was Hynix aware of the fact at the time it acted?		
5	Yes No		
6	1 es No		
7	If your answer to question 53(a) is "Yes," please proceed to question 54.		
8	If your answer to question 53(a) is "No," please proceed to question 53(b).		
10	b. Would Hynix have acted differently if Hynix had known of the concealed or suppressed fact?		
11	Yes No		
12 13	Please proceed to question 54.		
14	Additional Questions Regarding Nanya		
15 16	54. a. Was Nanya aware of the fact at the time it acted?		
17	If your answer to question 54(a) is "Yes," please proceed to question 55.		
18	If your answer to question 54(a) is "No," please proceed to question 54(b).		
19 20	b. Would Nanya have acted differently if Nanya had known of the concealed or suppressed fact?		
21	Yes No		
22 23	Please proceed to question No. 55.		
24	Additional Questions Regarding Micron		
<ul><li>25</li><li>26</li></ul>	55. a. Was Micron aware of the fact at the time it acted?		
27	Yes No		
28	-14-		
	RAMBUS'S PRELIMINARY [PROPOSED] VERDICT FORM,		
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#### 1 If your answer to question 55(a) is "No," please proceed to question 55(b). 2 Would Micron have acted differently if Micron had known of the b. 3 concealed or suppressed fact? Yes \_\_\_\_\_ No \_\_\_\_ 4 5 If you answered one or more of questions 53(b), 54(b) or 55(b) "Yes," please proceed to question 56. Otherwise, sign and return this verdict. 6 7 56. Do you find that Hynix, Nanya and Micron have met their burden of proving that Rambus's alleged concealment caused the standard-setting organization, JEDEC, 8 to adopt a standard it otherwise would have rejected? 9 Yes No 10 11 If your answer to question 56 is "No," please sign and return this verdict. 12 If your answer to question 56 is "Yes," please proceed to question 57. 13 57. Do you find that Hynix, Nanya and Micron have met their burden of proving that 14 the adoption of the standard gave Rambus monopoly power it would not otherwise have obtained? 15 16 Yes \_\_\_\_\_ No \_\_\_\_ 17 If your answer to question 57 is "No," please sign and return this verdict. 18 If your answer to question 57 is "Yes," please proceed to question 58. 19 20 58. Did Rambus's concealment or suppression of the fact cause Hynix injury? a. 21 Yes No 22 23 Did Rambus's concealment or suppression of the fact cause Nanya injury? c. 24 Yes No 25 d. Did Rambus's concealment or suppression of the fact cause Micron injury? 26 Yes \_\_\_\_\_ No \_\_\_\_ 27 28

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1	V. CHECKING AND SIGNING OF VERDICT FORM
2	You have now reached the end of the verdict form and should review it to ensure it
3	accurately reflects your decisions. The Foreperson should then sign and date the verdict form in
4	the spaces below and notify the Bailiff that you have reached a verdict. The Foreperson should
5	retain possession of the verdict form and bring it when the jury is brought back into the
6	courtroom.
7	
8	DATED:, 2008 By:
9	Foreperson
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1		
2	DATED: March 21, 2008	Respectfully submitted,
3		MUNGER, TOLLES & OLSON LLP
4	4	SIDLEY AUSTIN LLP
5		McKOOL SMITH PC
6	5	
7	,	By: /s/ Steven M. Perry Steven M. Perry
8		Attorneys for RAMBUS INC.
9		Automeys for RAMIDOS IIVE.
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